APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR		ATTORNEY DOCKET NO.
09/458,580	12/09/99	BRENNAN	M	3718-3

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EXAMINER
HOUTTEMAN, S

ART UNIT	PAPER NUMBER
1656	8

DATE MAILED: 04/16/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire _____*three*_ month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) *1-107* _____ is/are pending in the applicat

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *1-107* _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). Filed 12/18/00 + 4/7/00

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

1.   Claims 1-107 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant regards

as the invention.

Claims 1-107 recite and amount effective "to measurably regulate body weight, "

"effective to measurably increase or decrease the body weight" etc. The meaning of "regulate" or

"increase or decrease" body weight in this context is unclear. Animals can already "regulate"

body weight to some degree. Also, an animals body weight is always increasing or decreasing.

Drinking increases body weight and wast elimination and perspiration reduces body weight. It is

unclear how one distinguishes background weight regulation from specific effects derived solely

from the claimed method.

It is also unclear how one method can both "increase" body weight and "decrease" body

weight. If clarification is difficult, it is suggested that methods be claimed that either "increase"

body weight or "decrease" body weight.

2.   Papers relating to this application may be submitted to Technology Center 1600 by
facsimile transmission. The faxing of such papers must conform with the notice published in the
Official Gazette, 1096 OG 30 (November 15, 1989). The Technology Center 1600 Fax numbers
are (703) 305-3014 and 308-4242.

Any inquiry concerning this communication or earlier communications from the examiner
should be directed to Scott Houtteman whose telephone number is (703) 308-3885. The
examiner can normally be reached on Tuesday-Friday from 8:30 AM - 5:00 PM. The examiner
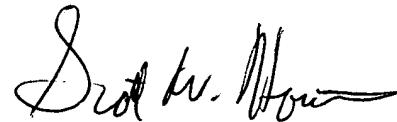can also be reached on alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones, can be reached at (703) 308-1152.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0196.

Scott Houtteman
March 20, 2000

SCOTT W. HOUTTEMAN
PRIMARY EXAMINER